

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-400

BOARD'S RULING ON APPEAL

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place - Room 1301
Boston, MA 02108

Patricia A. Lambert,)
Appellant,)
)
v.)
)
Town of N. Andover and Gerald Brown,)
Appellees)
)

Procedural History

This matter came before the State Building Code Appeals Board ("the Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from 780 CMR 116.0 and 780 CMR, Table 106 of the Massachusetts State Building Code ("MSBC") for 125 Windkist Road, North Andover, Massachusetts, 10845. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on April 24, 2007 where

all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present was the Appellant, Patricia A. Lambert. Present and representing the Town of North Andover was Inspector of Buildings Gerald Brown. Also present was Larry Shelzi and one other, name inaudible, representing the Appellant.

Exhibits: The following exhibits were accepted as evidence by the Board during the course of the hearing.

Exhibit #	Description	Pages	Document Date	Submitted By:
1	Letter to town of N. Andover	1	03/31/07	Appellant
2	Copy of MGL c. 128, §1A	1	01/03/07	Appellant
3	Plans for 115 Windkist Farm	4	08/24/05	Appellant
4	Photos	4	undated	Appellant
5	Letter from N. Andover Building Inspector	1	04/11/07	Appellee
6	Packet from Building Inspector	28	04/20/07	Appellee

Decision: Following testimony, and based upon relevant information provided, Board members voted as indicated below.

☐..... Granted ☒..... Denied ☐..... Rendered Interpretation

☐..... Granted with conditions (see below) ☐..... Dismissed

The vote was:


☒..... Unanimous ☐..... Majority

Reasons for Denial:

1. A geotechnical review detailing the nature of the soil on which the building is to be located is reasonably required pursuant to the order of the Inspector of Buildings.
2. Appellant has indicated the intent to operate a camp for children on the property. At the time of the hearing, Appellant had not provided the Inspector of Buildings with a written plan that documented the anticipated location of camp activities and approximate number

of participants in the camp intended to be held on the property or clearly delineated whether or not participants in the camp will would use the building in question. The motion to deny the variance was made by Member Gary Moccia and seconded by Member Keith Hoyle. The variance is **DENIED**. Members voting unanimously to grant the variance were Harry Smith; Gary Moccia; and Keith Hoyle.

The following members voted in the above manner

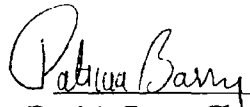

Chairman -Harry Smith


Gary Moccia


Keith Hoyle

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: October 3, 2007


Patricia Barry, Clerk

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.